

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JONATHAN MOYNAHAN LARMORE,

Defendant.

24-CR-140 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

An initial *Curcio* hearing in this case is scheduled for 2 p.m. tomorrow, September 4, 2024, in Courtroom 1305 in the Thurgood Marshall United States Courthouse. *See* Dkt. 48. The purpose of the *Curcio* inquiry is to explore the potential conflict that the Government has identified with respect to proposed incoming counsel (Bruce L. Udolf, Esq., and Richard M. Asche, Esq.) for defendant Jonathan Moynahan Larmore; to determine whether that conflict is waivable; and to determine whether Mr. Larmore, after informed consultation with independent counsel, demonstrates appreciation of the risks presented by the conflict and is prepared to waive it. In light of the importance of this hearing, the Court has directed that Mr. Larmore's existing and incoming counsel be present in person for the hearing. The Court has further made clear that, unless and until the Court has approved the representation by proposed incoming counsel, so as to enable the withdrawal of existing counsel, existing counsel—the law firm of Dickinson Wright PLLC—continues to represent him in this matter. *See id.*

At approximately 4:20 p.m. this afternoon, Mr. Udolf, whom the Court understands to be proposed new lead counsel for Mr. Larmore, filed a letter on the docket of this case, representing that he has been hospitalized from August 26 through September 2 after a fall and will be unable

to travel to attend the September 4 hearing. *See* Dkt. 60. Mr. Udolf's letter stated that Mr. Asche would attend the hearing in person. *Id.* The letter stated that Mr. Udolf will be available to try this case on October 15, 2024, and that Mr. Larmore will not seek a continuance of this matter. *Id.* The letter did not state why proposed incoming counsel had not earlier alerted the Court to this complication.

The Court wishes Mr. Udolf a speedy and full recovery. Of necessity, to accommodate Mr. Udolf's recovery, the Court will permit Mr. Udolf—and Mr. Udolf alone—to attend the September 4 hearing remotely, by telephone. The Court's deputy will contact Mr. Udolf with dial-in information. The Court expects, however, that Mr. Asche will be fully prepared to address all issues relevant to the *Curcio* issue at the hearing.

As the Court will underscore at tomorrow's hearing, the coming weeks will be busy ones in this case. Among other things, a consequential hearing is scheduled for September 9, 2024, at which the Court expects (1) to continue, as necessary, the *Curcio* inquiry; and (2) to take up pending pretrial motions with counsel. Mr. Udolf's letter indicates, however, that he will be unable to travel to attend that hearing, either. *See id.* And the possibility exists that Mr. Udolf's recovery may otherwise impair his ability to optimally represent Mr. Larmore. The Court expects that existing counsel for Mr. Larmore—given the possibility that Mr. Larmore will elect not to pursue a change of counsel in light of the potential conflict and/or Mr. Udolf's condition, or that the Court will not approve a conflict waiver—will continue to vigorously represent him in pretrial matters and in preparation for trial.

SO ORDERED.

Paul A. Engelmayer

PAUL A. ENGELMAYER
United States District Judge

Dated: September 3, 2024
New York, New York